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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,174

09/29/2003

Leigh E. Wood

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

02/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/674,174	Applicant(s) WOOD ET AL.	
	Examiner Ruth C. Rodriguez	Art Unit 3677	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


ROBERT J. SANDY
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that EP 0 669 121 (EP '121) in combination with Dilnik fail to disclose the claimed invention in claims 29-43 because EP '121 fails to disclose that "the first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region" because EP '121 recites that "a terminal end portion of release tape 74 may optionally overlap and adhesively bond to an intermediate section of substrate member 48..." and "The resultant interconnection between substrate 48 and release tape 74 provides a Y-bond which strengthen the assembly and attachment of tape fastener 44 to the section of the diaper 20..." and serves to prove that the bond tab is attached to the carrier tab at the overlap region. This argument fails to persuade. The first recitation only serves to recite that outside of the other embodiments disclosed in EP '121 there is an optional embodiment as shown in Figures 2 and 3 where the overlap region is very small and that a bonding tape joins the base tab to the carrier tab. Especially since the disclosure only recites the bonding tape is adhesively joined to the carrier tab and that the bonding tape is adhesively joined to the base tab and there is no recitation for this particular embodiment that the carrier tab is adhesively attached to the base tab. The recitation of a Y-bond does not provide support for having an attachment between the base tab and the carrier tab because no details are provided for what is being considered as the Y-bond and one of ordinary skill in the art will not understand that there is an attachment between the base tab and the carrier tab just because of this recitation.

Regarding claim 44, the Applicant argues that the limitation "wherein the bonding tape is welded using a welding technique selected from the group consisting of chemical welding, dynamic mechanical welding, and combination thereof." does have patentable weight for the article claim. The Examiner fails to be persuaded because the claim is an article claim directed to a closure system and the claim only requires that the bonding tape is adhesively attached and welded to the second major surface of the base tab. The limitation in question is considered a method limitation and method limitations do not have patentable weight.